

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

IN RE: VALSARTAN, LOSARTAN, AND CIVIL ACTION NUMBER:

IRBESARTAN PRODUCTS LIABILITY 1 : 19-md-02875-RBK-SAK

LITIGATION **DISCOVERY/STATUS CONFERENCE**

VIA ZOOM VIDEOCONFERENCING

Mitchell H. Cohen Building & U.S. Courthouse
4th and Cooper Streets
Camden, New Jersey 08101
Thursday, November 16, 2023
Commencing at 4:03 p.m.

B E F O R E: THE HONORABLE THOMAS I. VANASKIE (RET.),
SPECIAL MASTER

APP E A R A N C E S:

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Proceedings recorded by mechanical stenography; transcript produced by computer-aided transcription.

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22 **Also present:**

23 Larry MacStravic, The Courtroom Deputy

24 Loretta Smith, Esquire, Judicial Law Clerk to the Honorable
Robert B. Kugler

1 (PROCEEDINGS, held via remote Zoom videoconferencing
2 before the Honorable Thomas I. Vanaskie (Ret.), Special Master,
3 at 4:03 p.m. as follows:)

4 THE COURT: Hello. Good afternoon. I am on my way
5 back from Allentown, Pennsylvania in my car, but everything
6 should be fine.

7 Who will be speaking on behalf of plaintiffs on this
8 call?

9 THE LAW CLERK: I'm not sure.

10 THE COURTROOM DEPUTY: I'm sorry, it's Larry. I
11 haven't let anybody in yet.

12 THE COURT: Okay. Oh, great, Larry. Are you ready
13 to let everybody in?

14 THE COURTROOM DEPUTY: I am ready.

15 THE COURT: Okay. I think we're ready to go then.

16 (Pause.)

17 THE COURT: Larry, are you there?

18 THE COURTROOM DEPUTY: Everybody is in, Judge.

19 THE COURT: Everybody's in, all right. This is Tom
20 Vanaskie. I am coming back from a mediation in Allentown,
21 Pennsylvania. I am not driving. Somebody else is driving. So
22 you don't have to worry about that, and we're ready to get
23 started. I don't think we have a whole lot we need to discuss
24 today. So who will be talking on behalf -- speaking on behalf
25 of the plaintiffs?

1 MR. WILLIAMSON: Your Honor, I believe it's a mixed
2 bag today. This is Attorney George Williamson. I will be
3 speaking on the production's issue as well as the NDC code
4 issue. I think one of my colleagues will be providing the
5 update on the plaintiff fact sheets.

6 THE COURT: Okay. And who do we have for the
7 defense?

8 MS. LOCKARD: Good afternoon, Judge. It's Victoria
9 Lockard from Greenberg Traurig. I'm here prepared to address a
10 number of the items in the letter. And I believe Jeff
11 Geoppinger is online to talk about the PFS.

12 THE COURT: That's great.

13 MS. LOCKARD: We'll also have -- we'll be able to
14 have updates from the individual counsel for each manufacturer,
15 if required, for status of everyone's productions.

16 THE COURT: Okay. All right. Why don't we first
17 talk about where we stand with respect to production of
18 documents.

19 Who's addressing that? Do we have to go defendant by
20 defendant on this?

21 MS. LOCKARD: That's probably best, Your Honor. I
22 can start for Teva.

23 THE COURT: Okay.

24 MS. LOCKARD: I can let Your Honor know, we have
25 made, on behalf of Teva, two of our first rolling productions.

1 The first was September 1st, and we made a second production
2 this morning.

3 THE COURT: Okay. Let me ask a question before we go
4 to the next party.

5 The case management order that was submitted back
6 then, that was never entered. And I think what we have reminds
7 me of a famous line: "What we have here is a failure to
8 communicate."

9 THE COURT REPORTER: I'm sorry, Your Honor?

10 (Lost connection to the Court.)

11 (Reporter clarified the record.)

12 THE COURT: How is that? Any better? I'm coming
13 down off a hill and it should get better and better as I go.

14 But what I was starting to say is the problem with
15 entry of that case management order reminded me of a line from
16 Cool Hand Luke where the warden says: "What we have here is a
17 failure to communicate."

18 The order came in with Judge Kugler's signature
19 blind. But I'll go ahead and issue that order so it gets on
20 the docket. And so we've heard from Teva --

21 MS. LOCKARD: Would you like us to resubmit it with
22 your signature, Judge Vanaskie?

23 THE COURT: That would make it easier for me.

24 MS. LOCKARD: Okay. Consider it done.

25 THE COURT: All right. Thank you.

1 Just give me a minute here. Where do things stand
2 with respect to Aurobindo production?

3 MR. MASTERS: Hi, Your Honor. This is Jeff Masters
4 for the Aurobindo defendants. We have not made any productions
5 yet, but we do have an agreement in place with plaintiffs'
6 counsel, Ruben Honik and Conlee Whiteley, with regard to our
7 productions, which would not begin before mid-November.

8 THE COURT: All right. That's pursuant to agreement,
9 okay. Very well.

10 How about Hetero?

11 MR. MURTHA: Good afternoon, Your Honor. This is
12 William Murtha on behalf of the Hetero defendants. We also
13 have an agreement with plaintiffs' counsel, and we are
14 continuing to meet and confer and making productions next week.
15 We have agreed to custodians and search terms and are
16 cooperating mutually.

17 THE COURT: All right. Very well.

18 ScieGen?

19 MR. KURTZ: Good afternoon, Your Honor. This is
20 Mitchell Kurtz on behalf of ScieGen. We made a production last
21 Friday, November 10th, and we'll make rolling productions
22 thereafter.

23 THE COURT: Very well. Thanks. That, of course, is
24 all in the letter.

25 Torrent?

1 MS. NAGLE: Good afternoon, Your Honor. This is
2 Brittney Nagle on behalf of the Torrent defendants. So we made
3 our initial rolling production on October 31st, and we are
4 currently in the process of working on our next production to
5 go out either tomorrow or Monday.

6 THE COURT: Thank you.

7 Vivimed?

8 MR. TWEEN: Afternoon, Your Honor. This is Doug
9 Tween on behalf of Defendant Vivimed. We've made our first
10 production about two weeks ago. Our second production is going
11 out the door tonight or tomorrow.

12 I will note that we were called out in the
13 plaintiffs' letter in advance of this conference that we had
14 not produced I guess a production log. I scoured the case
15 management order and did not see anything about that. But
16 notwithstanding that, we've spoken to a couple of defendants,
17 have gotten exemplars of what they've produced in the past, and
18 we're fine with producing that, you know, for our prior
19 production and going forward.

20 THE COURT: Oh, great. Okay. Very well.

21 I guess the last one is ZHP.

22 MS. ROSE: Good afternoon, Your Honor. This is Nina
23 Rose for the ZHP defendants.

24 ZHP made its first rolling production in July of this
25 year, and we've made monthly additional rolling productions

1 since: In August, September and October. And we anticipate
2 making our next rolling production, I believe, either today or
3 tomorrow, but by the end of this week is what we expect.

4 THE COURT: Great. Thank you.

5 Are there any questions from plaintiffs with respect
6 to the productions that have been made?

7 MR. WILLIAMSON: Your Honor, this is George
8 Williamson. I don't believe we have any questions with respect
9 to the productions. I think we are hopeful that the defendants
10 will continue producing as they review the documents and the
11 documents are batched and ready to go as opposed to
12 backloading, you know, large productions, such that it would
13 compress our timeline and ability to review them in light of
14 potential depositions beginning, you know, next spring or early
15 summer.

16 THE COURT: Anything else on that, Mr. Williamson?

17 MR. WILLIAMSON: No, Your Honor, not on that point.

18 THE COURT: All right. Is there anything we need to
19 discuss with respect to the losartan and irbesartan NDCs?

20 MR. WILLIAMSON: I don't believe so. Again, this is
21 George Williamson, Your Honor. I don't believe so from the
22 plaintiffs' standpoint. We have reviewed the stipulation.
23 There was a little miscommunication on our part earlier. And
24 that's why -- you know, the defendants had given us the
25 proposed stipulation prior to us drafting the position

1 statement. However, we -- you know, our messages were crossed
2 a little bit, and, you know, we didn't put the agreed upon
3 language into our letter.

4 However, we have reviewed the stipulation and the
5 NDCs that were provided to us. We are in agreement with the
6 stipulation, and we will take the defendants at their word that
7 they have identified all of the products at issue in the
8 litigation with respect to irbesartan and losartan.

9 THE COURT: Great. Thanks.

10 MS. LOCKARD: So just if I may, so just to confirm so
11 I'm clear, so we will not need to submit a separate
12 stipulation. We're just in agreement as stipulated to the
13 language that defendants put in my letter?

14 MR. WILLIAMSON: That's correct, from plaintiffs'
15 standpoint.

16 MS. LOCKARD: Okay. Thank you.

17 THE COURT: Okay. Great.

18 Now, where do we stand with respect to the losartan
19 and irbesartan PFS batch?

20 MR. GEOPPINGER: Your Honor, it's Jeff Geoppinger for
21 the wholesalers and in this case I guess all the defendants in
22 losartan and irbesartan. And we all but put it in the status
23 letter. We've gotten the three drafts out to the plaintiffs.
24 The plaintiffs, we talked about the TPP fact sheet. They've
25 provided their proposed revisions. We're hopeful to get our

1 comments back to those here yet this week, and then hopefully
2 get any -- any -- everything worked out. And anything that's
3 left remaining to be done, we can talk about on December 6th
4 and bring that one to a conclusion.

5 The other two fact sheets with respect to the
6 economic loss consumers and the medical monitoring plaintiffs,
7 we received the plaintiffs' revisions. The defendants are
8 going through those. From my brief review, those look like a
9 little bit lighter lift than the TPP fact sheets. So I expect
10 once we get the first one across the finish line, the other two
11 will follow shortly thereafter.

12 THE COURT: All right. Thank you.

13 Anything from the plaintiffs with respect to the PFS
14 drafts?

15 MS. WHITELEY: Your Honor, this is Conlee Whiteley on
16 behalf of the plaintiffs. And I think that Mr. Geoppinger
17 accurately described the status of where we are now, and we'll
18 just keep working to try to knock it out by agreement as much
19 as possible.

20 THE COURT: All right. Is there anything else we
21 need to discuss today, from the plaintiffs' part?

22 MR. WILLIAMSON: Not from the plaintiffs' part, Your
23 Honor.

24 THE COURT: All right. And, Ms. Lockard, anything on
25 the defense side?

1 MS. LOCKARD: Not that I'm aware of, Judge.

2 THE COURT: All right. Anybody else need to be
3 heard?

4 (No response.)

5 THE COURT: All right. Well, thank you all very much
6 for accommodating this call.

7 Ms. Lockard, get that order to me and we'll get it on
8 the docket pronto.

9 MS. LOCKARD: Will do.

10 THE COURT: Thank you all very much.

11 MS. LOCKARD: Thank you, Your Honor.

12 MR. WILLIAMSON: Thank you, Your Honor.

13 THE COURT: Take care.

14 (Proceedings concluded at 4:16 p.m.)

15 -----
16 **FEDERAL OFFICIAL COURT REPORTER'S CERTIFICATE**
17 -----

18 I certify that the foregoing is a correct transcript
19 from the record of proceedings in the above-entitled matter.

20
21 /S/John J. Kurz, RDR-RMR-CRR-CRC

22 November 20, 2023

23 Court Reporter/Transcriber

24

25

MR. GEOPPINGER: [1] 10/20	2800 [1] 3/3	AmerisourceBergen [1] 3/4	12/15	defendants [17]
MR. KURTZ: [1] 7/19	3	anticipate [1] 9/1	certify [1] 12/17	defense [2] 5/7 11/25
MR. MASTERS: [1] 7/3	30305 [1] 2/6	any [6] 6/12 7/4 9/5 9/8	CHRISTINE [1] 2/9	depositions [1] 9/14
MR. MURTHA: [1] 7/11	31st [1] 8/3	11/2 11/2	CHRISTOPHER [1] 1/13	Deputy [1] 3/23
MR. TWEEN: [1] 8/8	3333 [1] 2/6	anybody [2] 4/11 12/2	Cincinnati [1] 3/3	described [1] 11/17
MR. WILLIAMSON: [7] 5/1 9/7 9/17 9/20	33950 [1] 1/20	anything [7] 8/15 9/16	CIVIL [1] 1/3	did [1] 8/15
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MS. LOCKARD: [11]	3600 [1] 2/20	11/24	clear [1] 10/11	DISCOVERY [1] 1/5
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MS. NAGLE: [1] 8/1	4:03 [2] 1/9 4/3	ARPS [1] 2/12	colleagues [1] 5/4	DISTRICT [2] 1/1 1/1
MS. ROSE: [1] 8/22	4:16 p.m. [1] 12/14	ask [1] 6/3	coming [2] 4/20 6/12	
MS. WHITELEY: [1] 11/15	4th [1] 1/8	Atlanta [1] 2/6	Commencing [1] 1/9	
THE COURT	5	Attorney [1] 5/2	comments [1] 11/1	
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THE COURT: [30]	6	Aurobindo [3] 2/17 7/2	6/17	
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